

ORDINANCE NO. 2006-038

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING SECTIONS 17-113 AND 17-116 OF THE CODE OF LAWS AND ORDINANCES; CODIFYING THE TOURIST DEVELOPMENT ORDINANCE OF PALM BEACH COUNTY, ORDINANCE 95-30, AS AMENDED; PROVIDING FOR THE LEVY OF A FIFTH CENT OF TOURIST DEVELOPMENT TAXES; PROVIDING FOR AN AMENDMENT TO THE TOURIST DEVELOPMENT PLAN TO INCLUDE THE EXPENDITURE OF REVENUES TO EXTEND, ENLARGE AND IMPROVE A CONVENTION CENTER; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR ENFORCEMENT; PROVIDING FOR APPLICABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the "Local Option Tourist Development Act" set forth in Section 125.0104, Florida Statutes, (hereinafter "statute"), authorizes the Board of County Commissioners (hereinafter "Board") to levy and impose a tourist development tax on the exercise within the County boundaries of the privilege of renting, leasing, or letting for consideration any living quarters or accommodations in any hotel, apartment hotel, motel, resort motel, apartment, apartment motel, roominghouse, mobile home park, recreational vehicle park or condominium for a term of six (6) months or less: and

WHEREAS, pursuant to the authority established in that statute, the Board enacted Ordinance 95-30 which has been amended from time to time and codified in Sections 17-113 through 17-116 of the Code of Laws and Ordinances relating to the Palm Beach County Government (hereinafter "Ordinance"), which levied a four (4) percent tourist development tax (also known as the "bed tax") for certain permissible uses as set forth in the statute; and

WHEREAS, the Ordinance established a Tourist Development Plan (hereinafter "Plan") which sets forth the specific uses and allocation of the revenues of the "bed tax"; and

WHEREAS, the statute at subsection (3)(n) authorizes the Board to levy an additional one percent (1%) tourist development tax; and

1 **WHEREAS**, the Board now wishes to exercise the authority granted in the statute to levy
2 an additional one (1) percent “bed tax” for a total of five percent (5%) tourist development tax
3 within the boundaries of Palm Beach County ; and

4 **WHEREAS**, the Board also wishes to amend the Plan to provide for additional funding to
5 extend, enlarge and improve a convention center pursuant to Section 125.0104 (5)(a); and

6 **WHEREAS**, the Board hereby finds and determines that the levy of the additional one
7 percent (1%) in “bed taxes” and the revisions to the Plan will advance, further and promote Palm
8 Beach County tourism.

9 **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY**
10 **COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:**

11 **Section 1. :** Section 17-113. **Levy of Tourist Development Tax** is amended to read as follows:

12 **Section 17-113. Levy of tourist development tax.**

13 (a) The levy and imposition of the tourist development tax (hereinafter the “tax”)
14 throughout Palm Beach County, Florida, is hereby reestablished and reenacted herein at a rate of
15 one (1) percent which commenced on the first day of the month following approval of the
16 referendum held September 7, 1982; which increased to two (2) percent on January 1, 1984; to
17 three (3) percent on February 1989; ~~and~~ to four (4) percent on January 1, 1994; and to five (5)
18 percent on December 1, 2006, of each whole and major fraction of each dollar of the total rental
19 charged every person who rents, leases, or lets for consideration any living quarters or
20 accommodations in any hotel, apartment hotel, motel, resort motel, apartment, apartment motel,
21 roominghouse, mobile home park, recreational vehicle park, or condominium for a term of six (6)
22 months or less, unless such person rents, leases, or lets for consideration any living quarters or
23 accommodations which are exempt according to the provisions of Chapter 212, Florida Statutes.
24 When receipt of consideration is by way of property other than money, the tax shall be levied and
25 imposed on the fair market value of such nonmonetary consideration.

26 (b) The tax shall be in addition to any other tax imposed pursuant to Florida Statutes,
27 Chapter 212, and in addition to all other taxes and fees and the consideration for the rental or lease.

1 (c) The tax shall be charged by the person receiving the consideration for the lease or
2 rental, and it shall be collected from the lessee, tenant, or customer at the time of payment of the
3 consideration for such lease or rental. (Ord. No. 95-30, § 3, 8-15-95)

4 **Section 2.** Section 17-116. **Tourist Development Plan** shall be amended to read as follows:

5 **Section 17-116. Tourist development plan.**

6 The tax revenues received pursuant to this article shall be used to fund the Palm Beach
7 County Tourist Development Plan which is hereby adopted as follows:

8 *Palm Beach County Tourist Development Plan*

9 (a) *Purpose.* Pursuant to the provisions of the Local Option Tourist Development
10 Act, this tourist development plan (hereinafter the “plan”) establishes the uses of the tax
11 revenue by specific project or special use as authorized in Florida Statutes, Section
12 125.0104. The plan also includes the expense allocation by percentage for each specific
13 project or special use.

14 ~~(b) Use and allocation of initial three (3) percent tax.~~ The following categories of use
15 ~~of the initial three (3) percent tax are hereby set forth together with the percentage of the~~
16 ~~total amount of yearly revenues to be expended for, or credited to, each category, subject~~
17 ~~to the provisions of subsection (c) of this section 17-116, commencing October 1, 2004:~~

18 (b) Use and allocation of tax revenues: The following categories of use of each
19 individual percent of the bed tax are set forth below in subsection (1) with the
20 percentage of the total amount of yearly revenue to be expended for, or credited to, each
21 category, subject to the provisions of subsection (c) of this Section 17-116, set forth in
22 subsection (2) commencing December 1, 2006:

23	<u>(1) Categories of Use:</u>	<u>Percentage</u>
24	~~(1) a.~~ Category A: Promote and advertise county tourism in the	
25	state and nationally and internationally, including the	
26	provisions of a convention and visitors bureau ~~and tourist~~	
27	~~information center.~~	52.47

1	(2) <u>b.</u>	Category B: Provide Cultural and fine and non-	
2		fine arts entertainment, festivals, programs, and	
3		activities which directly promote county tourism.	~~22.51~~
4	(3) <u>c.</u>	Category C: Provide beach improvement,	
5		maintenance, renourishment, restoration and	
6		erosion control with an emphasis on dune	
7		restoration where possible.	~~14.1~~
8	(4) <u>d.</u>	Category D: Provide for film and television	
9		marketing and development activities which	
10		directly promote county tourism.	~~3.92~~
11	(5) <u>e.</u>	Category E: Provide for special major projects and	
12		events which directly further, advance, improve,	
13		<u>promote</u> and generate county tourism. To be	
14		selected and funded pursuant to ~~paragraph~~	
15		<u>subsection</u> (c) of this section 17-116.	
16	(6) <u>f.</u>	Category F: Provide for the operation and	
17		maintenance of a convention center. To be funded	
18		pursuant to <u>subsection</u> (c) of this section.	
19	(7) <u>g.</u>	Category G: Attract, stimulate, market and execute	
20		sports events and activities in order to promote the	
21		county nationally and internationally as a sports	
22		destination, including the financing of the	
23		construction of Blum Stadium, a sports stadium,	
24		all of which directly promotes county tourism.	~~7~~
25	<u>h.</u>	<u>Category H: Construct, extend, enlarge, remodel,</u>	
26		<u>repair, and/or improve a convention center.</u>	
27	<u>i.</u>	<u>Category I: Provide payment on (1) debt service</u>	
28		<u>relating to bonds issued to finance the construction</u>	
29		<u>of professional sports franchise facilities and a</u>	
30		<u>convention center, (2) for the planning and design</u>	

costs incurred prior to the issuance of such bonds,
 and (3) for the operation and maintenance cost of a
 convention center for 10 years.

(2) *Percent of Yearly Revenue:*

Category	<u>1st</u> <u>percentage</u> <u>tax</u>	<u>2nd</u> <u>percentage</u> <u>tax</u>	<u>3rd</u> <u>percentage</u> <u>tax</u>	<u>4th</u> <u>percentage</u> <u>tax</u>	<u>5th</u> <u>percentage</u> <u>tax</u>	<u>Total 2nd</u> <u>3rd and 5th</u>
<u>A</u>		<u>16.05</u>	<u>16.05</u>		<u>20.37</u>	<u>52.47</u>
<u>B</u>		<u>6.89</u>	<u>6.89</u>		<u>8.73</u>	<u>22.51</u>
<u>C</u>		<u>7.05</u>	<u>7.05</u>			<u>14.10</u>
<u>D</u>		<u>1.20</u>	<u>1.20</u>		<u>1.52</u>	<u>3.92</u>
<u>E</u>	<u>See</u>	<u>subsection</u>	<u>(c) of</u>	<u>this</u>	<u>Section</u>	<u>17-116.</u>
<u>F</u>	<u>See</u>	<u>subsection</u>	<u>(c) of</u>	<u>this</u>	<u>Section</u>	<u>17-116.</u>
<u>G</u>		<u>2.14</u>	<u>2.14</u>		<u>2.72</u>	<u>7.00</u>
<u>H</u>	<u>100</u>					
<u>I</u>				<u>100</u>		

(c) *Reserve for convention center operations and maintenance and special major projects and events.* Notwithstanding the percentages allocating the bed tax revenues to the various categories of uses as set forth above in subsection (b), each year two hundred fifty thousand dollars (\$250,000.) of the ~~initial first three~~ second, third and fifth percent of bed tax revenues shall be transferred into an account which shall be reserved for the operation and maintenance of a convention center (Category F) and one hundred fifty thousand dollars (\$150,000.) of the ~~initial first three~~ second, third and fifth percent of bed tax revenues shall be transferred into an account (Category E) which shall be reserved for special major projects and events which may arise from time to time offering the county the opportunity to further, advance, improve, promote and generate county tourism. The TCD shall review such projects to ensure that the expenditures of such funds are authorized under Florida Statutes, Section 125.0104(5), and is consistent with the plan. The Category E reserve account shall not exceed one million dollars (\$1,000,000.). In the event the account balance does exceed one million dollars

1 (\$1,000,000.), the excess revenues shall revert to Categories A, B, C, D, and G in the
2 percentages allocated in subsection (b).

3 ~~(d) Use of additional one (1) percent tax. The additional one (1) percent tax effective~~
4 ~~January 1, 1994, shall be used to pay:~~

5 ~~(1) The debt service on bonds issued to finance the construction,~~
6 ~~reconstruction, or renovation of professional sports franchise facilities~~
7 ~~and to pay the planning and design costs of said facilities incurred prior~~
8 ~~to the issuance of such bonds.~~

9 ~~(2) The debt service on bonds issued to finance the construction,~~
10 ~~reconstruction, or renovation of a convention center, and to pay the~~
11 ~~planning and design costs incurred prior to the issuance of such bonds.~~

12 ~~(3) The operation and maintenance costs of a convention center for a period~~
13 ~~of ten (10) years.~~

14 (d) Sports Franchise Facilities and Convention Center

15 A tourist development plan for professional sports franchise facilities and/or a
16 convention center must be approved by resolution of the board for the purpose of advancing,
17 promoting, and furthering county tourism. The facilities and/or convention center identified in
18 the plan(s) ~~to benefit from the levy of the additional one (1) percent tax~~ may be amended by
19 resolution of the board. ~~This additional levy~~ The levy of the fourth cent shall automatically
20 expire upon the retirement of all bonds issued to pay the debt service for the financing of a
21 professional sports franchise facilities and/or the convention center.

22 ~~(c) Tourist information center. A portion of the revenues allocated to Categories A,~~
23 ~~B, D, and G under subparagraph (b) of this section shall be used to fund the~~
24 ~~construction and operation of a tourist information center as established and~~
25 ~~approved through the annual budget.~~

26 ~~(f) (e)~~ Retirement of debt for construction of Blum Stadium. The provision of Category
27 G of ~~paragraph b~~ subsection b of this section authorizing the use of revenues to finance
28 the construction of a sports stadium shall sunset upon the retirement of all debt incurred
29 to finance the construction of Blum Stadium.

1 ~~(g)~~ (f) *Administrative expenses.* There shall be an annual amount established for
2 administrative expenses which shall not exceed nine (9) percent of the total Tourist
3 Development Trust Fund budget. Administrative expenses shall include administrative
4 staff salaries, benefits, administrative travel, indirect costs, and all costs of furnishing
5 and operating administrative offices whether paid directly or by reimbursement, except
6 that funds for contractual services from the administrative budget may be expended
7 upon the express approval of the council.

8 ~~(h)~~ (g) *Annual review of plan.* The council and the board shall annually review the
9 plan. On or before September 1 of each year, the council shall forward to the board its
10 recommendation for revisions, if any, to the plan. The board shall review the plan to
11 determine the most effective use of the revenues derived from the tax.

12 ~~(i)~~ (h) *Amendment of plan.* Except as provided in Florida Statutes, § 125.0104, Florida
13 Statutes, to the contrary, the above tourist development plan may not be substantially
14 amended except by ordinance enacted by an affirmative vote of a majority plus one (1)
15 additional member of the board of county commissioners.

16 **Section 3. REPEAL OF LAWS IN CONFLICT:**

17 All local laws and ordinances in conflict with any provisions of this Ordinance are
18 hereby repealed to the extent of such conflict.

19 **Section 4. SAVINGS CLAUSE:**

20 Notwithstanding anything to the contrary, all provisions of Palm Beach County Code
21 Section 17.111 through 17.116, codifying Palm Beach County Ordinance No. 95-30, as
22 amended, are specifically preserved and remain in full force and effect for the limited purpose
23 of enforcing any alleged violations of said Code which occurred prior to its repeal or
24 amendment.

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1 **Section 10. EFFECTIVE DATE:**

2 The provisions of this Ordinance shall become effective upon filing with the
3 Department of State.

4 APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach
5 County, Florida, on this the 12th day of September, 2006.

6
7 SHARON R. BOCK,
8 CLERK & COMPTROLLER
9 PALM BEACH COUNTY

PALM BEACH COUNTY, FLORIDA,
BY ITS BOARD OF COUNTY
COMMISSIONERS

10 By: [Signature]
11 Deputy Clerk

By: [Signature] John (Jeff) Koon
for Tony Masilotti, Chairman

12 APPROVED AS TO FORM AND
13 LEGAL SUFFICIENCY
14

15 By: [Signature]
16 County Attorney

17 EFFECTIVE DATE: Filed with the Department of State on the 19th day of
18 September, 2006.

19 G:\WPDATA\ENGURAPPINA\ORDIN\TDC Ord 2d read on 9-12-06 Final08-24-06.wpd

STATE OF FLORIDA, COUNTY OF PALM BEACH
I, SHARON R. BOCK, Clerk & Comptroller certify
this to be a true and correct copy of the original
filed in my office on **SEP 12 2006**
dated at West Palm Beach, FL on 9-26-2006
By: [Signature]
Deputy Clerk